



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,078	01/14/2002	Didier Vargas	34185	8190

116 7590 03/12/2004

PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
SUITE 1200  
CLEVELAND, OH 44114-3108

EXAMINER

GOFF II, JOHN L

ART UNIT	PAPER NUMBER
----------	--------------

1733

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/031,078

Applicant(s)

VARGAS, DIDIER

Examiner

John L. Goff

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 14 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is noted claim 1 requires "a means (19) of closing the branches". Claim 2 further describes the means of closing the branches as "a spring compressed between two handles (17, 18)". The specification describes a single means for closing the branches and that is "A spring 19 is compressed between the handles 17 and 18". Thus, claim 1 requires the means for closing the branches described by the specification (a compressed spring), and as such because claim 2 requires the same the claim is not further limiting. The examiner has interpreted to the limitation of "a means (19) of closing the branches" in claim 1 to require the means disclosed in the specification and claim 2. It is suggested applicant amend claim 1 to require the means as disclosed in claim 2 to remove the claim objections and the 35 USC 112 rejections (set forth below).

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 1733

3. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for closing the branches using a compressed spring, does not reasonably provide enablement for any other closing means. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

The specification discloses a single means for closing the branches and that is "A spring 19 is compressed between the handles 17 and 18". The specification does not enable one of ordinary skill in the art to close the branches using anything other than a compressed spring.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because it is unclear what types of closures are encompassed by "a means (19) of closing the branches". It is clear from the specification that a compressed spring is a "a means (19) of closing the branches", but it is unclear if "a means (19) of closing the branches" is limited to a compressed spring. Are there other "means (19) of closing the branches" without using a compressed spring?

Claim 3 recites the limitation "a preparatory installation stage for a pair of tongs... .. on a portion of the sleeve at the level of the link with the opening (1) of the chamber (2) and a sealing region (8) of the sleeve" in lines 6-8. There is insufficient antecedent basis for this limitation in the claim. Furthermore, this limitation is confusing. It is suggested to delete "at the

Art Unit: 1733

level of the link with the opening (1) of the chamber (2) and a sealing region (8) of the sleeve" and insert therein - - near the opening (1) of the low pressure chamber and above the sealing region (8) of the sleeve - -.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Chaussinand (U.S. Patent 632,444).

Chaussinand discloses an apparatus comprising two branches interlocked at a pivot point (articulated) where each branch further comprises a facing edge having indentations.

Chaussinand teaches the means for closing the branches is a spring compressed between two handles (the handles extending from the branches) behind the pivot point (Figure 1 and Page 1, lines 23-29). It is noted the limitations of "Holding tongs (9) for a flexible sleeve" and "the branches comprising facing edges (13, 14) separated by a distance corresponding almost to the same thickness as the sleeve when they are held parallel in a closed position of the branches" are method limitations (as such holding little patentable weight when considering the apparatus claim) capable of being preformed by the apparatus taught by Chaussinand, in particular the apparatus is capable of holding a flexible sleeve and when holding the sleeve the facing edges of

Art Unit: 1733

the apparatus are parallel and separated by a distance corresponding almost to the same thickness as the sleeve.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iraids (U.S. Patent 2,815,777) in view of any one of Chaussinand, Abramson (U.S. Patent 3,398,746), Gruber et al. (U.S. Patent 4,461,193), Danberg (U.S. Patent 2,644,142), or von Zeppelin (U.S. Patent 5,074,870).

Iraids discloses an apparatus comprising two branches interlocked at a pivot point (articulated) where each branch further comprises a facing edge having indentations (Figure 1 and Column 2, lines 38-41 and 67-69). Iraids teaches the facing edges (set parallel to one another) are separated by a thickness prior to their application (Column 3, lines 27-32). Iraids further teaches the means for closing the branches includes a spring compressed between two handles (the handles extending from the branches) (Column 4, lines 11-15). It is noted that while Iraids does not explicitly teach the compressed spring is set behind the pivot point it would have been obvious to one of ordinary skill in the art at the time the invention was made that the apparatus would have this configuration as it is well known in the art when a compressed spring is placed between the handle portions it is behind the pivot point as shown for example by any

Art Unit: 1733

one of Chaussinand, Abramson, Gruber et al., Danberg, or von Zeppelin. It is further noted the limitations of "Holding tongs (9) for a flexible sleeve" and "the branches comprising facing edges (13, 14) separated by a distance corresponding almost to the same thickness as the sleeve when they are held parallel in a closed position of the branches" are method limitations (as such holding little patentable weight when considering the apparatus claim) capable of being preformed by the apparatus taught by Iraids, in particular the apparatus is capable of holding a flexible sleeve and when holding the sleeve the facing edges of the apparatus are parallel and separated by a distance corresponding almost to the same thickness as the sleeve.

The figures of any one of Chaussinand, Abramson, Gruber et al., Danberg, or von Zeppelin show a clamp apparatus comprising two branches interlocked at a pivot point where each clamp is opened by compressing a spring between two handles, the handles extending from the branches and the spring located behind the pivot point.

#### ***Allowable Subject Matter***

10. Claim 3 would be allowable if rewritten to overcome the claim objections and rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter:

While it is known in the art to seal a flexible sleeve using a pair of heated tongs (See Grasso U.S. Patent 3,322,603) and it is also known to clamp regions above and below the seal region before sealing (See Weldotron GB 1,062,051), the prior art of record fails to teach or suggest a sealing process of a flexible sleeve utilizing a pair of heated tongs and a pair of holding

Art Unit: 1733

tongs wherein the pair of holding tongs is applied to the sleeve above the sealing region before the pair of heated tongs are applied and the pair of holding tongs has the structure as described in claims 1 and 2.

### ***Conclusion***

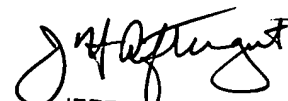
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is (571) 272-1216. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John L. Goff  
February 27, 2004



JEFF H. AFTERGUT  
PRIMARY EXAMINER  
GROUP 1300